

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 124

Introduced by Senator Leno
(Coauthors: Senators Pan and Wieckowski)
(Coauthors: Assembly Members Cooley and Gordon)

January 16, 2015

An act to amend Sections 225, 226, 229, and 230 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as amended, Leno. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come or remain in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for *the* evaluation of ~~persons, a person, including minors, a minor who are~~ *is* dangerous to ~~self himself or herself~~ or others, or gravely disabled, as defined.

This bill would prohibit a person confined in a juvenile facility who is an imminent danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, from being subject to

solitary confinement. The bill would also prohibit a person, other than ~~one~~ *a person* described above, who is detained in any secure state or local juvenile facility from being subject to solitary confinement unless certain conditions are satisfied, including that the person poses an immediate and substantial risk of harm to the security of the facility, to himself or herself, or to others that is not the result of a mental disorder. The bill would permit, if those conditions are satisfied, the person to be held in solitary confinement only in accordance with specified guidelines, including that the person be held in solitary confinement only for the minimum time required to address the risk, and that does not compromise the mental and physical health of the person, but no longer than 4 hours. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. *The bill would authorize a person confined in a juvenile facility to request a voluntary time out, as defined, for no longer than 2 hours and would require voluntary time outs to be documented.* By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens.

This bill would increase the membership of a regional juvenile justice commission to no less than 10 members. The bill would also require that 2 or more members of a juvenile justice commission or a regional juvenile justice commission be parents or guardians of previously incarcerated youth, and one member be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections.

This bill would instead require a juvenile justice commission to inspect any jail, lockup, or facility that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor and would require, as a part of that inspection, a review of the records of the jail, lockup, or facility relating to the use of solitary confinement. The bill would require the commission to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the Board of State and Community Corrections, and the county board of supervisors. The bill would require the commission to annually present its report at a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government's Internet Web site or other publicly accessible medium.

By increasing the duties of local commissions and county boards of supervisors, this bill would impose a state-mandated local program.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) "Juvenile facility" includes any of the following:

1 (A) A juvenile hall, as described in Section 850.

2 (B) A juvenile camp or ranch, as described in Article 24
3 (commencing with Section 880).

4 (C) A facility of the Department of Corrections and
5 Rehabilitation, Division of Juvenile Facilities.

6 (D) A regional youth educational facility, as described in Section
7 894.

8 (E) A youth correctional center, as described in Article 9
9 (commencing with Section 1850) of Chapter 1 of Division 2.5.

10 (F) Any other local or state facility used for the confinement of
11 minors or wards.

12 (2) “Minor” means a person who is any of the following:

13 (A) A person under 18 years of age.

14 (B) A person under the maximum age of juvenile court
15 jurisdiction who is confined in a juvenile facility.

16 (C) A person under the jurisdiction of the Department of
17 Corrections and Rehabilitation, Division of Juvenile Facilities.

18 (3) “Solitary confinement” means the placement of an
19 incarcerated person in a locked sleep room or cell alone with
20 minimal or no contact with persons other than guards, correctional
21 facility staff, and attorneys. Solitary confinement does not include
22 confinement of a person in a single-person room or cell for brief
23 periods of locked-room confinement necessary for required
24 institutional operations, including, but not limited to, shift changes,
25 showering, ~~and unit movements~~, *movements, and protection against*
26 *communicable diseases with the written approval of a licensed*
27 *physician for the shortest amount of time required to reduce the*
28 *risk of infection in cases where a person is not required to be in*
29 *an infirmary for an illness.*

30 (4) “Voluntary time out” means a brief period of time in a sleep
31 room or cell upon the written and signed request of the person
32 confined in a juvenile facility.

33 ~~(4)~~

34 (5) “Ward” means a person who has been declared a ward of
35 the court pursuant to subdivision (a) of Section 602.

36 (b) A person confined in a juvenile facility who is an imminent
37 danger to himself, herself, or others as a result of a mental disorder,
38 or who is gravely disabled, as defined in subdivision (h) of Section
39 5008, shall not be subject to solitary confinement.

1 (c) A person confined in any secure state or local juvenile
2 facility, and who is not described in subdivision (b), shall be subject
3 to solitary confinement only if all of the following are true:

4 (1) The person poses an immediate and substantial risk of harm
5 to the security of the facility, to himself or herself, or to others that
6 is not the result of a mental disorder.

7 (2) All other less-restrictive options to address the risk have
8 been attempted and exhausted.

9 (3) The performance of solitary confinement is done in
10 accordance with the following guidelines:

11 (A) The person may be held in solitary confinement only for
12 the minimum time required to address the risk, and for a period of
13 time that does not compromise the mental and physical health of
14 the minor or ward, but not to exceed four hours. After the person
15 is held in solitary confinement, the person shall be returned to
16 regular programming or placed in individualized programming
17 that does not involve solitary confinement. If a person who is
18 released from solitary confinement and is returned to regular or
19 individualized programming poses an immediate and substantial
20 risk of harm to himself or herself, or to others, he or she may be
21 placed back into solitary confinement only in accordance with the
22 protections and requirements of this section, and that confinement
23 shall be treated as a new and separate use of solitary confinement
24 for the purposes of subdivisions (c), (d), and (e).

25 (B) If a person in solitary confinement poses a risk of harm to
26 himself or herself that is not a result of a mental disorder, the
27 condition of the person shall be monitored closely by custody staff
28 of the juvenile facility.

29 (C) The use of consecutive periods of solitary confinement in
30 excess of four hours shall be prohibited.

31 (d) Solitary confinement shall not be used for the purposes of
32 discipline, punishment, coercion, convenience, or retaliation by
33 staff.

34 (e) For each incident when solitary confinement is used, each
35 local and state juvenile facility shall document the usage of solitary
36 confinement, including all of the following:

37 (1) The name, age, gender, and race of the person subject to
38 solitary confinement.

39 (2) The date and time the person was placed in solitary
40 confinement.

1 (3) The date and time the person was released from solitary
2 confinement.

3 (4) The name and position of person authorizing the placement
4 of the person in solitary confinement.

5 (5) The names of staff involved in the incident leading to the
6 use of solitary confinement.

7 (6) A description of circumstances leading to use of solitary
8 confinement.

9 (7) A description of alternative actions and sanctions attempted
10 and found unsuccessful.

11 (8) The dates and times when staff checked in on the person
12 when he or she was in solitary confinement, and the person's
13 behavior during the check.

14 (f) The records described in ~~subdivision (e)~~, *subdivisions (e)*
15 *and (h)*, excluding any identifying information, shall be available
16 for public inspection pursuant to the California Public Records
17 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
18 of Title 1 of the Government Code).

19 (g) If a state or local juvenile facility currently documents the
20 usage of solitary confinement consistent with the requirements
21 imposed under subdivision (e) and meets the requirements of
22 subdivision (f), then duplicative documentation shall not be
23 required.

24 (h) *A person confined in a juvenile facility may request a*
25 *voluntary time out for no longer than two hours. During any*
26 *voluntary time out, the person shall participate in all programming*
27 *and meals. The person may end his or her voluntary time out at*
28 *any point upon notifying a staff member. Voluntary time outs shall*
29 *be documented and include the name of the person requesting the*
30 *time out, his or her signature, when the voluntary time out began,*
31 *and when it ended.*

32 ~~(h)~~

33 (i) This section is not intended to limit the use of single-person
34 rooms or cells for the housing of persons in juvenile facilities.

35 ~~(i)~~

36 (j) This section does not apply to minors or wards in court
37 holding facilities or adult facilities.

38 ~~(j)~~

1 (k) Nothing in this section shall be construed to conflict with
2 any law providing greater or additional protections to minors or
3 wards.

4 SEC. 2. Section 225 of the Welfare and Institutions Code is
5 amended to read:

6 225. (a) In each county there shall be a juvenile justice
7 commission consisting of not less than 7 and no more than 15
8 citizens. Two or more of the members shall be persons who are
9 14 to 21 years of age, inclusive. Two or more of the members shall
10 be parents or guardians of previously incarcerated youth. One
11 member shall be a licensed psychiatrist, licensed psychologist, or
12 licensed clinical social worker with expertise in adolescent
13 development. Each person serving as a member of a probation
14 committee immediately prior to September 15, 1961, shall be a
15 member of the juvenile justice commission and shall continue to
16 serve until his or her term of appointment as a member of the
17 probation committee would have expired under any prior law.
18 Upon a vacancy occurring in the membership of the commission,
19 and upon the expiration of the term of office of any member, a
20 successor shall be appointed by the presiding judge of the superior
21 court with the concurrence of the judge of the juvenile court or,
22 in a county having more than one judge of the juvenile court, with
23 the concurrence of the presiding judge of the juvenile court for a
24 term of four years. If a vacancy occurs for any reason other than
25 the expiration of a term of office, the appointee to fill the vacancy
26 shall hold office for the unexpired term of his or her predecessor.

27 (b) Appointments may be made by the presiding judge of the
28 superior court, in the same manner designated in this section for
29 the filling of vacancies, to increase the membership of a
30 commission to the maximum of 15 members in any county that
31 has a commission with a membership of less than 15 members.

32 (c) In any county in which the membership of the commission,
33 on the effective date of amendments to this section enacted at the
34 1971 Regular Session of the Legislature, exceeds the maximum
35 number permitted by this section, no additional appointments shall
36 be made until the number of commissioners is less than the
37 maximum number permitted by this section. In any case, that
38 county's commission membership shall, on or after January 1,
39 1974, be no greater than the maximum number permitted by this
40 section.

1 SEC. 3. Section 226 of the Welfare and Institutions Code is
2 amended to read:

3 226. In lieu of county juvenile justice commissions, the boards
4 of supervisors of two or more adjacent counties may agree to
5 establish a regional juvenile justice commission consisting of not
6 less than 10 citizens, and having a sufficient number of members
7 so that their appointment may be equally apportioned between the
8 participating counties. Two or more of the members shall be
9 persons who are 14 to 21 years of age, inclusive. Two or more of
10 the members shall be parents or guardians of previously
11 incarcerated youth. One member shall be a licensed psychiatrist,
12 licensed psychologist, or licensed clinical social worker with
13 expertise in adolescent development. The presiding judge of the
14 superior court with the concurrence of the judge of the juvenile
15 court or, in a county having more than one judge of the juvenile
16 court, with the concurrence of the presiding judge of the juvenile
17 court of each of the participating counties shall appoint an equal
18 number of members to the regional justice commission and the
19 members shall hold office for a term of four years. Of those first
20 appointed, however, if the number of members appointed is an
21 even number, one-half shall serve for a term of two years and
22 one-half shall serve for a term of four years. If the number of
23 members first appointed is an odd number, the greater number
24 nearest one-half shall serve for a term of two years and the
25 remainder shall serve for a term of four years. The respective terms
26 of the members first appointed shall be determined by lot as soon
27 as possible after their appointment. Upon a vacancy occurring in
28 the membership of the commission, and upon the expiration of the
29 term of office of any member, a successor shall be appointed by
30 the presiding judge of the superior court with the concurrence of
31 the judge of the juvenile court or, in a county having more than
32 one judge of the juvenile court, with the concurrence of the
33 presiding judge of the juvenile court of the county that originally
34 appointed the vacating or retiring member. If a vacancy occurs for
35 any reason other than the expiration of a term of office, the
36 appointee shall hold office for the unexpired term of his or her
37 predecessor.

38 SEC. 4. Section 229 of the Welfare and Institutions Code is
39 amended to read:

1 229. (a) It shall be the duty of a juvenile justice commission
2 to inquire into the administration of the juvenile court law in the
3 county or region in which the commission serves. For this purpose
4 the commission shall have access to all publicly administered
5 institutions authorized or whose use is authorized by this chapter
6 situated in the county or region, shall inspect those institutions at
7 least once a year, and may hold public hearings. A judge of the
8 juvenile court may issue subpoenas requiring attendance and
9 testimony of witnesses and production of papers at hearings of the
10 commission.

11 (b) A juvenile justice commission shall annually inspect any
12 jail, lockup, or facility within the county that, in the preceding
13 calendar year, was used for confinement for more than 24 hours
14 of any minor. As a part of the annual inspection, a juvenile justice
15 commission shall review the records of the jail, lockup, or facility
16 relating to the use of solitary confinement, as defined in paragraph
17 (3) of subdivision (a) of Section 208.3. The commission shall
18 report the results of the inspection, together with its
19 recommendations based thereon, in writing, to the juvenile court,
20 the county board of supervisors, and to the Board of State and
21 Community Corrections. The report shall be presented annually
22 as part of a regularly scheduled public meeting of the county board
23 of supervisors, and may be published on the county government's
24 Internet Web site.

25 SEC. 5. Section 230 of the Welfare and Institutions Code is
26 amended to read:

27 230. A juvenile justice commission may recommend to any
28 person charged with the administration of any of the provisions
29 of this chapter those changes it has concluded, after investigation,
30 will be beneficial. A commission may publicize its
31 recommendations on the county government's Internet Web site
32 or other publicly accessible medium.

33 SEC. 6. The Legislature finds and declares that Section 1 of
34 this act, which adds Section 208.3 to the Welfare and Institutions
35 Code, imposes a limitation on the public's right of access to the
36 meetings of public bodies or the writings of public officials and
37 agencies within the meaning of Section 3 of Article I of the
38 California Constitution. Pursuant to that constitutional provision,
39 the Legislature makes the following findings to demonstrate the

1 interest protected by this limitation and the need for protecting
2 that interest:

3 In order to protect the privacy and medical information of
4 persons confined in secure state and local juvenile facilities and
5 held in solitary confinement, it is necessary that identifying
6 information about those persons be kept confidential.

7 SEC. 7. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

O